

**Reference: ACT467/48/03**

**Parish Council: Baginton**

**Case Officer: Mr. John Archer**

## **COVENTRY AIRPORT, BAGINTON**

Development of passenger terminal facilities and associated works subject of enforcement action.

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### **INTRODUCTION**

The Inquiry into the appeals against the Council's enforcement notices served in respect of the 'interim' passenger facility at Coventry Airport has been progressing since February and is now in its latter stages. As part of the appeal, as is normal in the appeal process, the appellant (WMIAL) have appealed on the grounds that planning permission should be granted (the Ground 'A' appeal). This means that there is now, effectively, a retrospective planning application for the development before the Inquiry. The Inspectors conducting the Inquiry will report to the First Secretary of State and Secretary of State for Transport (who will determine the appeal) on this matter and in order to do so, must be clear on the Council's position on the retrospective application. It is therefore necessary for the Council to take a view on this matter before the close of the Inquiry.

There is a considerable amount of information that is relevant to the development that has emerged during the course of the Inquiry process that effectively forms part of the application. In addition, in accordance with Government guidance, the Council's officers/consultants and the appellant have been in negotiations as to what extent it is possible to reach agreement on any potential planning conditions and/or obligations in respect of controlling, mitigating and compensating for the effects of the development in the event of permission being granted.

The Council must now consider how it responds to the retrospective application in the light of all the relevant information that has come through the inquiry process and arrive at a conclusion on its merits. In so doing, in order to be certain it can demonstrate that it has acted reasonably, it must address the issues as it would any application for planning

permission fully and properly in the light of all relevant planning considerations that are before it at this time.

The remainder of this report sets out the background in more detail and then addresses the retrospective application.

## **BACKGROUND TO ENFORCEMENT AND CONSIDERATION OF GROUND 'A' APPEAL**

- 1.1 The Planning Committee have previously considered reports on February 17<sup>th</sup>, March 9<sup>th</sup>, March 31<sup>st</sup>, April 26/27<sup>th</sup> and June 15<sup>th</sup> (all 2004) and February 24<sup>th</sup> 2005 in relation to the unauthorised development of passenger terminal facilities and associated works at Coventry Airport (referred to elsewhere as the 'interim' passenger facility).
- 1.2 At the meeting of the 26/27<sup>th</sup> April 2004, the Committee resolved to authorise the serving of enforcement notices in respect of the unauthorised construction of a passenger terminal and associated facilities. The Committee also resolved to issue a screening opinion (under Regulation 25 of the Environmental Impact Assessment (EIA) Regulations 1999) to the effect that the development was 'EIA development'.
- 1.3 The Notices and Screening Opinion were served on West Midlands International Airport Limited (WMIAL) on the 29<sup>th</sup> April 2004. These were appealed by WMIAL (the appellants) to the Planning Inspectorate on May 28<sup>th</sup> 2004 on the following grounds;

**Ground A – that permission should be granted for what is alleged in the notices (i.e. in effect a retrospective planning application)**

**Ground B – that the breach of Control has not occurred as a matter of fact**

**Ground C – that there has not been a breach of control**

**Ground E – the notice was not properly served (since withdrawn)**

**Ground F – the steps to comply with the notice are excessive**

**Ground G – that the time to comply with the notice is too short**

An Inquiry start date was subsequently set by the Inspectorate for the appeal to begin on the 1<sup>st</sup> February 2005.

- 1.4 Members will recall the appellant also applied on the 2<sup>nd</sup> June 2004 to the Secretary of State for a screening direction, which in effect was an appeal against the screening opinion adopted by the Council that the development was 'EIA development'.
- 1.5 On the 7<sup>th</sup> July 2004, the Secretary of State directed that the development was 'unauthorised EIA development' for the purposes of the Regulations and required that an Environmental Statement be submitted by the 7<sup>th</sup> October 2004 in support of the appellants Ground 'A' appeal (that planning permission be granted retrospectively).
- 1.6 The Council received copies of the Environmental Statement from the Inspectorate on the 18<sup>th</sup> October 2004 and in accordance with Government guidance undertook an assessment of the robustness of the ES and the environmental effects of the development. This assessment was undertaken with the assistance of expert consultants in respect of noise, air quality and aviation matters during November 2004 to January 2005. In addition, it should be noted that the ES was the subject of consultation with statutory consultees (including the Highways Agency), town and parish councils, neighbouring local authorities and members of the public during this period. Their views were sent to the Inspectorate and copied to the Council.
- 1.7 The assessment of the ES was incorporated within the proofs of evidence of the Council's witnesses which were reported to Members of the Planning Committee on the 24<sup>th</sup> February 2005. At that Committee, Members resolved that the evidence of the Council's witnesses before the Inquiry (which had to be submitted prior to the Committee in early January to meet the Inquiry deadlines and in order to respond to the First Secretary of State's Rule 5 letter requesting views on the issues he wished to be addressed at the Inquiry) constituted the Council's position.

- 1.8 At the Planning Committee of the 24<sup>th</sup> February 2005, Members were also invited to consider the appellant's offer of a Section 106 Planning Obligation – Draft Heads of Terms which had been offered in respect of its Ground 'A' appeal. Members resolved that the package of control and mitigation measures as offered was not sufficient to control or mitigate the impact of the development to the extent that retrospective planning permission for the development the subject of the enforcement notices should be granted by the First Secretary of State.
- 1.9 Following that decision and during the course of the Inquiry, in accordance with the planning inquiry procedures, officers and consultants for the Council (and other statutory consultees, notably the Highways Agency) have been negotiating with the appellant in respect of the offer on a without prejudice basis to the Council's position in respect of the Ground 'A' appeal. Those negotiations have now come to a conclusion and, as set out previously, it is now necessary for the Planning Committee to consider the planning obligation offered by the appellant in order to inform the Inspectors chairing the Inquiry of the Council's position on the Ground 'A' appeals. Members views will form part of the Council's closing submissions to be made to the Inquiry later this month.
- 1.10 The purpose of this Report therefore is for Members to consider whether, in light of the proposed planning obligation, the development is now considered to be in accordance with the policies of the development plan and whether, having regard to any other material planning considerations, they are prepared to support the Ground 'A' appeals currently before the Inquiry. Members are reminded that the decision as to whether the Ground 'A' appeal succeeds will be made by the Secretaries of State in due course.

## **BACKGROUND DOCUMENTATION TO GROUND 'A' APPEAL**

- 2.1 In addition to the previous reports to Planning Committee on the development of a passenger terminal at Coventry Airport, there are a number of documents which are relevant to matters considered within this Report. These include;
- The Environmental Statement and Transport Assessment for the 'interim' passenger terminal.

- All responses to the Environmental Statement made during the consultation period.
  - All the proofs of evidence submitted to the Inquiry and supplementary information/evidence produced by the various parties at the Inquiry.
- 2.2 All of this material is available to view within the Inquiry Programme Officer's room (the Conservative Room) at the Town Hall during normal office hours. Arrangements can be made to view this material outside of office hours if necessary.

## **CONTEXT TO GROUND 'A' APPEAL**

- 3.1 Members will recall that the Ground 'A' appeal in effect equates to a retrospective planning application. In light of the period of time since consideration of this matter, the following section briefly describes the site, the development, planning history and policy context within which this development should be considered.

### *The Site*

- 3.2 The 'interim' passenger terminal is located adjacent to the south apron at Airport South. The site is accessed from Siskin Parkway West. To the north and west lies the airport runway and associated buildings, to the south and east lies the Middlemarch Business Park, a mixture of large light industrial and commercial buildings which are accessed from Tollbar End junction. The surrounding land is rural in nature and forms part of the West Midlands Green Belt. Members will recall their site visits made during March and September 2004.

### *The Development*

- 3.3 The appellant has stated within their evidence to the Inquiry that the 'interim' passenger facility would have a capacity of 0.98 million passengers per annum and is therefore prepared to accept a cap on passenger numbers at that level of operation. The appellant has produced within its evidence to the Inquiry a potential flight schedule assuming the 'interim' passenger facility is operating at capacity. This assumes the maximum number of movements would be (on a

busy summer day in summer 2007) 36 passenger aircraft movements (18 departures and 18 arrivals) from the Airport of which 5 would be during the night time period (2300 to 0700).

- 3.4 With regard to additional infrastructure, the appellant is making use of the existing southern apron for the parking and storage of aircraft. The passenger and staff car parking required to serve the development is addressed within a separate report on this agenda. Members will recall their site visits made during March and September 2004 where the 'interim' passenger facility and the operations were observed.

#### *Planning History*

- 3.5 Coventry Airport has a long standing history of aviation activity dating from before the commencement of the planning system in 1947. Its use as an airfield/airport has not ceased during this time although activity has varied in scale and extent. As such, therefore, the Airport presently operates without any direct control over the nature and number of aircraft movements. Prior to the start of operations from the 'interim' passenger terminal in 2004, Coventry Airport served a specialist role within the region, catering for business aviation, air mail and some freight.
- 3.6 Outline planning permission was granted in 1990 (and renewed on two further occasions in 1993 and 1998) for the erection of a new passenger terminal building and other operational buildings at Airport South. That permission was never implemented and has now lapsed. It should also be noted that a building used for the processing of passengers had previously existed at Airport West (adjacent to Baginton Village). This building was, however, removed as part of the legal agreement signed by the Airport Operator in respect of the Parcellforce development at Airport South in 1998. This was replaced with a building used for general aviation purposes which exists today.

#### *Relevant Planning Policies*

- 3.7 Since the consideration of this matter last year, the development plan has changed in respect of the fact that the Regional Planning Guidance for the West Midlands to 2021 (now Regional Spatial Strategy) now forms part of the

development plan. Therefore, the policies of the development plan are taken from the Regional Spatial Strategy (RSS), the Warwickshire Structure Plan 1996-2011 (WASP) and the Warwick District Local Plan (WDLP). The policies of the adopted Local Plan are less relevant as to a large extent they have been superseded by more recently adopted development plan policies and national guidance. The policies of the emerging Local Plan (Revised Deposit Version) are also relevant to the consideration of this development although they have less weight than policies of the development plan as it has yet to be tested at a Local Plan Inquiry.

- 3.8 The RSS was published in June 2004 and represents the most up-to-date development plan. The most relevant policy to the consideration of this development is Policy T11 which it states is to be reviewed as part of a future revision of this RSS (no review has been published as yet). The policy requires development proposals at Coventry Airport to be subject to rigorous environmental assessment and must demonstrate:-

- a) that both economic benefits and harmful environmental impacts have been assessed, in line with the principles of sustainable development;
- b) that unavoidable harm be reduced through mitigation; and
- c) where harm cannot be avoided or mitigated, it should be compensated for.

In addition, any proposals for the use of Coventry Airport by charter or scheduled passenger flights should be subject to the availability of public transport to serve the Airport.

- 3.9 WASP was adopted in August 2002. Policy T.12 deals specifically with the development of Coventry Airport. The policy requires Coventry Airport to be the focus of aviation activity in Warwickshire. Facilities ancillary to the operation of existing commercial aviation activity, such as cargo and passenger handling, should only be provided for in the district local plan where:-

- a) it can be accommodated within the existing airport curtilage; and
- b) it does not require the removal of land from the Green Belt; and
- c) the development is consistent with regional or national airport strategies; and

- d) the surface access needs can be accommodated in a manner compatible with this Plan; and,
- e) an Airport Surface Access Strategy is put into effect should the airport cater for 1,000 passenger air transport movements (PATMs) or more per annum.

3.10 More generally but of particular relevance, Policy ER.2 of WASP states that the environmental impact of all proposed development on human beings, soil, flora, fauna, water, air, climate, the landscape, geology, cultural heritage and material assets must be thoroughly assessed, and measures secured to mitigate adverse environmental effects to acceptable levels. Furthermore, all assessments of environmental impact should take account of, and where possible seek to reduce, uncertainty over the implications of the proposed development. If adverse impacts cannot be mitigated to acceptable levels, development will not be permitted.

3.11 The WDLP was adopted in 1995. Policy EMP3 confirmed the allocation of land for airport-related employment development and airport terminal buildings and Policy TR9 further required that development would only be permitted where it is for the purpose of modernisation of existing facilities, improvement of safety facilities or development for cargo handling. Policy ENV3 required all development proposals to (amongst other things) provide satisfactory vehicular access and not compromise the safe movement of free flow of traffic, or the safe use of roads by others. Policy ENV3A required all development to protect the essential character and environmental assets of the District.

3.12 The emerging Local Plan Revised Deposit Version (approved by the Council in May 2005) contains relevant policy SSP7 which states that development at Coventry Airport will only be permitted within the area defined on the Proposals Map where:-

- a) it consists of facilities for aviation activity undertaken at the airport;
- b) the environmental, surface access and amenity impacts can be mitigated to acceptable levels.
- c) any adverse impacts are mitigated to reduce harm or, where harm cannot be adequately mitigated, are compensated for;



- d) the number of air passengers served by the airport does not significantly exceed two million passenger movements per annum
- e) the number of air passengers served by the airport is linked to a level of availability of public transport serving the airport which discourages unnecessary private car use; and
- f) the number of air transport movements serving the airport does not constrain the growth of Birmingham International Airport as envisaged within the Air Transport White Paper

## **CONSIDERATION OF GROUND 'A' APPEAL**

- 4.1 As with all planning applications, it is important to firstly consider whether the principle of the development is in accordance with the development plan and it is helpful to remind Members here of the policy context in that respect.
- 4.2 As set out above at 3.7 to 3.12, the policies of the development plan do not oppose the principle of the development of passenger facilities at Coventry Airport subject to a range of criteria and conditions relating to the specific location of the development, the environmental impacts and how they are addressed, surface access requirements and consistency with national and regional airport strategies.
- 4.3 The location of the development is consistent with policy in that it is within the curtilage of the Airport and outside the Green Belt. The environmental and surface access impacts are discussed in detail later in the Report. These are clearly important factors in considering whether or not the proposal overall is in accordance with the development plan. In relation to consistency with national and regional airport strategies, the Air Transport White Paper is clearly relevant although it should be noted that the White Paper does not itself authorise or preclude any particular development, but sets out policies which will inform and guide the consideration of specific planning applications.
- 4.4 The Air Transport White Paper was published on December 16<sup>th</sup> 2003. Paragraph 9.31 states:

*Coventry Airport currently serves a specialist role within the region, catering for business aviation, air mail and some freight, and can continue to perform this role within existing constraints. There is a current planning application for a terminal development at the airport. However, in the light of our conclusions on capacity elsewhere in the Midlands, and having regard to potential surface access, environmental and airspace constraints, we would not envisage any significant further development being appropriate beyond the level of passenger throughput in the current application.*

4.5 In light of the comments regarding Coventry Airport, it is considered that the development and the level of passenger throughput (0.98mppa) associated with it is consistent with the White Paper.

4.6 Members will also recall that the principle of the development was explored thoroughly in the report of 11th September 2004 in respect of the development of a 'permanent' passenger terminal. The conclusion within that report on policy matters was as follows:

*"In conclusion, the principle of the development of a passenger terminal at Coventry Airport is considered to be in accordance with the policies of the development plan and other material considerations, most notably national and regional air transport policy"*

4.7 That conclusion was accepted by the Planning Committee. Notwithstanding the changes to the development plan since that time, that conclusion remains applicable in that the principle of the development of a passenger facility with the level of passenger throughput of 0.98mppa is in accordance with the policies of the development plan.

#### *Environmental Impacts*

4.8 As set out at paragraph 3.8, a key requirement of development plan policy T11 of RSS is for the development to be subject to rigorous environmental assessment. This is also reflected in Policy ER.2 of WASP. This is important as it enables the decision maker to assess the impacts of the development and thereby conclude on whether or not the development is in accordance with the other requirements

of the development plan, most notably in relation to whether or not it has adequately addressed the environmental impacts. Members will recall that at the time of serving the enforcement notices no environmental assessment had been undertaken in order to enable such an assessment to be undertaken.

- 4.9 Following the Secretary of State's screening direction, the appellant has produced an Environmental Statement (ES) in support of the Ground 'A' appeals. The ES has assessed both economic benefits and harmful environmental impacts and therefore has enabled an assessment of the impacts of the development to be undertaken. It is considered therefore that the ES, and all other environmental information submitted to the Inquiry, has resulted in a rigorous environmental assessment of the development and thereby complied with the development plan policy requirement.
- 4.10 Development plan policy (notably T11 of RSS and ER.2 of WASP) also requires that measures are secured to mitigate any adverse environmental impacts that cannot be avoided. Furthermore, Policy T11 of RSS requires that any harmful impacts that cannot be avoided or mitigated should be compensated for. It is necessary therefore to consider the various environmental impacts of the development.
- 4.11 The ES and supplementary environmental information has set out the environmental impacts of this development and those impacts have been tested through consultation and with the Council's own expert consultants in respect of noise, air quality and aviation matters. This in turn has enabled discussion to take place between the appellant and your officers/consultants on measures to mitigate and compensate for the impacts of the development.
- 4.12 The Council's evidence to the Inquiry, as approved by Members at the Planning Committee meeting of the 24<sup>th</sup> February 2005, identified the following environmental impacts of this development as being contrary to the development plan:-
- noise impacts;
  - impacts on air quality;

- impacts on local bird populations;
- impacts on cultural heritage (i.e. nearby historic landscapes, including conservation areas and historic parks) and
- surface access impacts.

It is necessary to re-consider the position on each of these environmental impacts in light of the evidence presented and tested before the Inquiry and in light of the measures offered by the appellant in respect of each impact.

#### *Noise Impacts*

- 4.13 Members will recall their conclusions from the Committee of the 24<sup>th</sup> February 2005 that the noise impacts of the unregulated development were unacceptable and that it was not consistent with national planning policies and development plan policies in respect of noise. The impact of aircraft noise as a result of passenger operations is undoubtedly one of the most critical environmental factors for the local community and has been subject to extensive debate at the Inquiry. Furthermore, a number of local people from the communities most affected have given evidence at the Inquiry as to the impact the ThomsonFly operations have had on their daily lives. The Inspectors at the Inquiry have also undertaken numerous site visits in the local area to observe and hear the operations first hand.
- 4.14 It is important to recall the tests of the development plan policy T11 of RSS when considering the matter of noise. That policy requires that where harm (i.e. noise) cannot be avoided it should be mitigated. Furthermore, where it cannot be mitigated it should be compensated for. The noise impact from the air and road movements associated with this development cannot be avoided. Aircraft arrival and departure routes will result in the over-flying of built up areas within the villages of Warwick District and Rugby Borough and the urban area on the eastern side of Coventry City. The test of the development plan policy therefore is whether or not the impact is adequately mitigated and/or compensated for. Furthermore, the expert noise consultant for the Council is of the opinion that provided a suitable package of measures is in place at the Airport to control, mitigate and compensate for the noise impact of this development; then noise is not a reason to object to the Ground 'A' appeal.

- 4.15 The appellant has put forward a package of measures which seek to control, mitigate and compensate for the impact of the development. This package has been the subject of lengthy negotiations between your officers/consultants and the appellants team of consultants. These negotiations have resulted in the following package (briefly described below) being offered. The package if accepted by Members would be worked up into a Section 106 Agreement with outstanding matters being dealt with by condition.
- 4.16 The appellant has offered controls upon the development and the level of operations which will have implication for all environmental impacts, but particularly noise. These controls include a cap on passenger movements through the development of 0.98mppa and a cap on passenger aircraft movements associated with the development of 12,930 per annum (this would be a condition which the appellant has indicated they would not resist). The cap on passenger aircraft movements is important in that it will control the extent of the daytime noise contours to that set out in the ES as it reflects the number of busy day movements for the full year. Having both passenger and aircraft movements capped will provide the Council with appropriate controls on the development.
- 4.17 The appellant is prepared to appoint a Noise Manager who will oversee the implementation of a Quiet Operations Policy (QOP) and ensure aircraft operators adopt and observe the QOP. Furthermore, they will convene a Quiet Operations Sub Committee to monitor and review the QOP which will include Environmental Health Officers of the three local authorities affected and representatives of the local area.
- 4.18 The QOP includes a number of measures which the appellant has offered to undertake. The appellant will provide and maintain a noise monitoring system which will include two fixed monitoring units and one mobile unit to be located by the District Council. These units will provide actual information on the noise of aircraft. This will enable verification of noise complaints from local people and identify aircraft movements made in contravention of the QOP. This should help the local community and Airport Operator to identify particular noise problems more easily and hopefully resolve them more quickly. In addition, in relation to

noise complaints, the appellant has indicated it would not resist a condition in respect of the imposition of a noise complaints handling system.

- 4.19 The appellant will also use all reasonable endeavours to ensure aircraft operators comply with Noise Preferential Routes (NPR's) for departing aircraft. The routes are designed to ensure aircraft are capable of operating safely and therefore can only seek to minimise over-flying of built up areas. Draft routes have been provided by the appellant to the Inquiry (Document CVT11/5) which are only marginally different from routes currently used. These routes would have some benefit in that aircraft would avoid the areas of Stoneleigh and Ashow when on a southerly track. However, overflying of Stareton, Cubbington, Weston under Wetherley and other villages to the east of Leamington would still occur. The over-flying of the more densely populated urban areas of eastern Coventry would also remain when aircraft take off in a north easterly direction.
- 4.20 A significant element of the package offered by the appellant is a Sound Insulation Grant Scheme. This scheme will enable those properties most affected by noise to qualify for a grant of no less than 80% of the cost of sound insulation to habitable rooms up to a maximum currently of £3,000. The appellant will contribute £50,000 per annum to the scheme and therefore up to 16 properties a year could be insulated.
- 4.21 The contours identifying those properties most affected and thereby qualifying for grant will be submitted to the Council for approval and will in due course be based on actual noise monitoring undertaken in the area. The thresholds are 63dB LAeq for the 16 hour daytime noise contour (0700 to 2300), 55dB LAeq for the 8 hour night time noise contour and the 90dB SEL for night time movements of the passenger aircraft associated with the development where operations occur on an average of once per night taken over a typical year. These thresholds are consistent with those operated at other airports and have recently been accepted by the First Secretary of State in respect of Finningley Airport. As an indication, and based on the assessment within the Environmental Statement, it is likely that a large number of properties in Willenhall and some properties on the eastern fringes of Baginton and Stoneleigh will qualify. Those properties most

affected by operations from the Airport, including from existing freight operations at night, would therefore receive some mitigation and compensation.

- 4.22 The appellant has also offered to introduce time restrictions on training activity. Training flights by turbo-jet and jet aircraft over 5700kgs will be restricted with no training on Sundays, UK Public Holidays or during the night time period (2300 to 0700). Other restrictions will apply in relation to the number of aircraft training at any time. This compensatory measure will give the Council an element of control over training activity at the Airport which does not exist at present.
- 4.23 Another element of the package offered by the appellant is the Quota Count (QC) System. This was explained in some detail in the report to the 11<sup>th</sup> September Planning Committee. The QC system, which is operated at most other airports, in effect seeks to control the night time noise impact by establishing a points system. All aircraft are attributed points at a national level with the noisier aircraft receiving more points.
- 4.24 The appellant is proposing to ban the use of noisier aircraft (4 points and above) which will include the DC3 and DC6 between the hours of 23.30 and 0600. This ban would be likely to be implemented within 21 months of the Secretary of State's decision. This would therefore remove the noisier freight aircraft from operating in the early hours of the morning which have been the subject of public complaints in the past.
- 4.25 Another aspect of the QC system, is the appellants offer to operate the Airport with an annual cap on the number of points it can use during the night-time period (defined as 23:30 to 06:00). This would apply to all aircraft movements, including freight movements. Therefore the more movements made by a noisy aircraft; the more points are used up by the Airport and therefore less movements can take place. In accordance with this approach, the QOP contains a Noise Quota Count (NQC) for night movements of 5000 points. This means that the Airport would not be allowed to operate aircraft during these hours which would result in them exceeding the 5000 points total.

- 4.26 It is accepted that the period 23:30 to 06:00 does not cover the period when many people would be going to sleep or sleeping lightly before waking. However, all Airports controlled by the NQC mechanism use this time period and to extend the time period would be inconsistent with the approach adopted elsewhere. Notwithstanding this criticism, this cap would provide a measure of control on the night-time noise impact of the Airport which does not currently exist. Given the uncertainties of the future operations at the Airport and their noise impacts in the absence of such controls (see 'fall back' position discussed below), the appellants offer in respect of the Noise Quota Count is a notable measure to compensate for the noise impact of the passenger operations from the development.
- 4.27 It should be noted that the City Council in its closing submissions were broadly satisfied with the offer in respect of how it affects the residents within their administrative area.

#### *Air Quality Impacts*

- 4.28 Members will recall their conclusions in respect of the impact of the development (notably vehicle movements) on air quality at properties around Tollbar End roundabout, and the related concern in relation to the need for the declaration of an Air Quality Management Area (AQMA) at Tollbar End, and within Baginton. This matter has also been subject to extensive debate at the Inquiry. This debate has involved Coventry City Council who are the responsible authority for air quality at Tollbar End. In their evidence to the Inquiry and in their closing submissions, they have acknowledged their concern about the effects of the development at the roundabout and the fact that concentrations of pollutants at Tollbar End are close to the level where an AQMA would need to be declared. However, they have stated that no AQMA has been declared and they will continue to evaluate this location.
- 4.29 In this context, the City Council is satisfied that subject a satisfactory monitoring programme and mitigation plan for impacts from the Airport, the impact on air quality at Tollbar End is not a reason to object to the Ground 'A' appeal. That position is accepted by the expert consultant for the Council. The detail of the



offer in respect of the monitoring is being discussed between the appellant and the City Council but agreement is expected to be reached shortly.

- 4.30 With regard to the air quality impacts within Baginton, these primarily derived from the vehicle movements associated with the passenger car parking at Airport West. During the course of the Inquiry, the appellant has submitted a planning application for car parking at Airport South adjacent to the development (discussed later in the report and as a separate matter before Committee). Their intention as expressed within this application is to locate all the car parking required to serve the development at Airport South. This will result in the use of Airport West ceasing for passenger and staff vehicles and the use of the shuttle bus service. Should this application be approved and implemented with suitable controls regarding ceasing the use of Airport West, the objection to the Ground 'A' appeal on the grounds of the impact on air quality in Baginton falls away.
- 4.31 Whilst it is acknowledged that passenger aircraft movements could cause air quality and odour problems within Baginton, the problems at present appear to relate primarily to the freight operations which do not form part of this development. The level of passenger operations from this development is not therefore considered to necessitate the need for monitoring and mitigation of air quality within Baginton.

#### *Impacts on Local Bird Populations*

- 4.32 Members will recall their concern as to the impact of the development upon local bird populations given the proximity of a number of sites that have conservation significance for birds at a national, regional and local level, including Ryton and Brandon Marsh SSSI and Ryton Wood SSSI. The specific concern was that the significant increase in large aircraft movements from the development would increase the risk of bird strike and that this would result in the Airport Operator imposing measures to prevent the establishment of habitats for birds, controlling the number of birds and reducing/eliminating birds from existing habitats around the Airport. Such measures would restrict the enhancement of nature conservation objectives at these sites and the achievement of the targets within the Biodiversity Action Plans and the Warwickshire Strategic Plan. This concern

was shared by Warwickshire Wildlife Trust, Rugby Borough Council and The Community Group in their evidence to the Inquiry.

- 4.33 The evidence to the Inquiry has shown that levels of bird strikes are very low at Coventry Airport (0.86 per 10,000 air traffic movements for 2002/2003) compared to national averages of 3-6 per 10,000 air traffic movements. Furthermore, for the period January to November 2004 (including eight months of passenger aircraft movements from the development) there has not been an increase in the bird strike rate (0.83 per 10,000 aircraft movements). These figures indicate that bird strike risk has not increased as a result of the development.
- 4.34 Furthermore, reference has been made on several occasions at the Inquiry (including by the Inspectors) to the safeguarding responsibilities of the Airport Operator to object to development that may increase bird strike risk within 13km of the Airport. These responsibilities existed prior to the development and therefore the Airport Operator's powers to prevent the establishment of habitats for birds within this area are not altered by this development. Similarly, the Airport are also required to produce a Bird Hazard Control Plan which is submitted to the Civil Aviation Authority (CAA) on an annual basis. This will outline monitoring to take place of bird attractant sites and bird hazards in the safeguarding zone to assess the need for any controls or reductions in bird numbers in order to comply with CAA requirements. Whilst there may be merit in this exercise, and the issue of bird strike risk generally, being addressed with local ecological interests (notably the Wildlife Trust), there is no requirement to do so on the Airport Operator.
- 4.35 On the basis of the evidence presented to the Inquiry from all parties, it is not therefore considered that this environmental impact should be maintained as a reason for objecting to the Ground 'A' appeal.

#### *Impacts on Cultural Heritage*

- 4.36 Members will recall their concern as to the impact of this development on cultural heritage given the proximity of the Conservation Areas of Stoneleigh and Ashow, the numerous listed buildings (including the Grade I listed Stoneleigh Abbey and the Church of St Mary) and the Grade II\* listed parks of special historic interest of

Stoneleigh Park and Stoneleigh Deer Park. The specific concern was that the noise and visual impact of the passenger aircraft movements from the development would adversely affect the character and tranquillity of these designated areas.

- 4.37 This issue primarily (although not exclusively) relates to arriving aircraft from a south westerly direction, which are at approximately 300 feet over Stoneleigh and 500 feet over Ashow. For safety reasons when landing, it is not possible for these aircraft to avoid over flying these areas and therefore the impact cannot be avoided. It is accepted that the impact is predominantly noise related and therefore it is necessary to give consideration to the extent which this impact can be mitigated or compensated for in the context of the general noise impact discussed above. The enjoyment of these historic landscapes and buildings is predominantly undertaken outside and therefore the impact cannot be mitigated. In this context, therefore, it is necessary to consider the extent to which the compensation measures proposed in respect of noise are sufficient to outweigh the harm caused to these designated areas.

#### *Surface Access Impacts*

- 4.38 Members will recall that the development was considered to be contrary to national guidance and development plan policy in respect of surface access for three reasons:-
- 1, failure to secure sustainable transport choices and reducing the reliance on the private car;
  - 2, impact of traffic on roads in the area; and
  - 3, inadequate car parking provision.
- 4.39 There has been a large amount of evidence given to the Inquiry on surface access matters from a number of parties, including the Highways Agency (HA). Negotiations have also taken place outside of the Inquiry between the appellant, the HA and the relevant local highway authorities (Coventry City Council and Warwickshire County Council) in respect of securing sustainable transport choices.

- 4.40 The appellant has offered to undertake to appoint a Travel Plan Co-ordinator whose role will be to establish an Air Transport Forum (ATF), regularly collect travel data information in respect of passengers and employees and prepare an Air Surface Access Strategy (ASAS) with accompanying Travel Plan and Parking Strategy for the approval of the Council. The adoption of these measures will put in place a framework at the Airport involving all relevant parties in encouraging sustainable travel choices by passengers and staff. This framework is consistent with other Airports and would comply with Government guidance and the development plan policy requirement to put into effect an ASAS.
- 4.41 Development plan policy (T11 of RSS) also requires any proposals for the use of Coventry Airport by passenger flights to be subject to the availability of public transport to serve the Airport. In the context of Coventry Airport, public transport availability can only feasibly relate to bus provision. The appellant has offered to operate a shuttle bus service connecting the development to Coventry Bus and Rail Stations. The service will operate at an hourly frequency with timetables to be regularly reviewed in order to co-incide with arrivals and departures from the Airport at times when bus and train services are still operating. The buses will be suitably designed for passenger use. In addition, a staff bus service will be introduced which operates at appropriate times to serve employees. This level of public transport provision is considered reasonable for this level of passenger operation and, coupled with a commitment to encourage its use and to work with the West Midlands Public Transport Executive to increase the frequency of existing services, is considered acceptable in the context of the development plan policy. This view is supported by the local highway authorities.
- 4.42 In respect of the traffic impact on local roads, the primary impact is in relation to TollBar End roundabout and the trunk road network. The HA are the responsible authority for the trunk road network and have been involved in lengthy negotiations with the appellant during the course of the Inquiry in respect of the traffic impact and the necessary mitigation measures required. These negotiations have resulted in agreement being reached between the parties. The HA has identified a package of mitigation and control measures which they require in respect of the development, namely:-

- 1, the signalisation of the Rowley Road entry to Tollbar End roundabout to improve the efficiency of the junction;
- 2, the upgrade of the current signal control mechanism at Tollbar End roundabout to a 'real-time' computer optimisation of the signal cycles using extended queue detection to improve the balance of queuing at the junction;
- 3, sufficient and satisfactory signage;
- 4, aircraft scheduling controls to limit the number of aircraft arrivals and departures and thus vehicle movements during the evening peak period; and
- 5, an airport surface access strategy be implemented.

4.43 It is understood that the appellant agrees to fund the carrying out of the measures and enter into an agreement to do so. On the basis that this is undertaken, the Highways Agency objection to the development is satisfied.

4.44 In respect of the traffic impact within Baginton, during the course of the Inquiry, the appellant has submitted a planning application for car parking at Airport South adjacent to the development (discussed later in the report and as a separate matter before Committee). Their intention as expressed within this application is to locate all the car parking required to serve the development at Airport South. This will result in the use of Airport West ceasing for passenger and staff vehicles and the use of the shuttle bus service. Should this application be approved and implemented with suitable controls regarding ceasing the use of Airport West, the objection to the Ground 'A' appeal on the grounds of traffic impact on local roads falls away.

4.45 In respect of the adequacy of the car parking provision, a number of proposals have emerged during the course of the Inquiry. The appellant has indicated in its evidence to the Inquiry that it requires 1,810 spaces for passengers and 250 spaces for employees (2,060 in total). Evidence submitted to the Inquiry from the Highways Agency suggests the figure for passengers is in the broad order of magnitude which has been observed to allow satisfactory operation at a range of airports. This level of provision is therefore considered appropriate to Coventry Airport subject to it being continually assessed within the parking strategy (referred to above) in relation to encouraging sustainable travel choices.

4.46 During the course of the Inquiry, the appellant has submitted two planning applications for car parking to serve the development in order to meet this level of provision. The first application was for approximately 2,000 spaces on land within the administrative area of Coventry City Council. This application has subsequently been withdrawn and then re-submitted. At the present time it is understood it is currently undetermined.

4.47 The second application was made to the Council in May of this year for 2,060 spaces at Airport South on land adjacent to the development. The appellant has clearly indicated in its evidence to the Inquiry that this is its preferred option for the location of car parking as it wishes to provide car parking as close as possible to the IPF for the following four reasons:-

- 1, it is the most convenient location for passengers;
- 2, it is the most convenient and economical way of administering car parking;
- 3, there are benefits in removing parking from Airport West; and
- 4, car parking on its own land is commercially more attractive for the appellant.

4.48 This application forms the first item on the agenda for this Committee to consider. This application as with all applications must be considered on its merits against the planning policy framework. Should this application have been considered favourably by the Committee (and appropriately conditioned to tie its use to the 'interim' passenger facility) then the appellant will be able to demonstrate it has adequate car parking to serve the development. The inadequacy of the car parking to serve this development will therefore no longer be a reason for objecting to the Ground 'A' appeal provided the car parking is implemented and used for this purpose.

#### *Other measures*

4.49 The appellant has also offered other measures in respect of publicising locally job opportunities and to work with local employment and regeneration agencies to publicise job opportunities. They have also offered to submit an Annual Report to the Airport Consultative Committee in relation to the various measures offered in respect of noise, air quality and surface access.

### *'Fall-back' position*

- 4.50 Taking into consideration the above and in deciding whether or not the package of measures is acceptable, it is necessary to have regard to the “fall back” position, i.e. the impact of what could happen at the Airport without the need for express planning permission. In this regard, it is important to recall that aircraft movements from the Airport (e.g. in terms of aircraft type, noise generated and the time of movements) do not come under planning control as a consequence of the Airport being an established use existing prior to the advent of the planning system. Furthermore, the Airport Operator benefits from permitted development rights which enable it to undertake operational development without requiring planning permission (with the exception of the land adjacent to Baginton village where those rights were removed as part of the Section 106 Agreement signed as part of the Parcellforce development) unless the scale of the development triggers the need for an Environmental Impact Assessment.
- 4.51 The weight to be given to any ‘fall-back’ position depends on the real likelihood of it actually being exercised. The appellant has asserted at the Inquiry that should it not be able to proceed with the ‘interim’ passenger facility, it would look at alternative means of revenue from the operation of whatever flights it could. This may include additional freight operations, including operations that do not require any additional development or infrastructure, that are most likely to occur during the night time period (2300 to 0700). Whilst there has been extensive debate over the likelihood of the ‘fall-back’ position at the Inquiry, there can be no absolute certainty over the extent of an uncontrollable “fall back” option in the medium to long term. It must be accepted therefore that there remains some prospect of an alternative scenario being implemented and this must be taken into account when considering the acceptability of a mitigation package.

## **OTHER MATERIAL PLANNING CONSIDERATIONS**

- 5.1 Having considered whether or not the development accords with the policies of the development plan, it is necessary to consider whether there are any other material planning considerations which are relevant. There has been debate at the Inquiry into the economic benefits of the development. The appellant has indicated that the development had generated 420 jobs at 31/12/04 with this

figure anticipated to rise to 800 jobs by 2007. In addition, a further 272 jobs is estimated to be created indirectly within the wider economy. Reference has also been made to the deprived areas of Coventry City and to the measures proposed by the appellant within the planning obligation to ensure future job opportunities are directed to those communities.

- 5.2 Whilst the extent to which this development will benefit the sub regional economy and the deprived areas of Coventry City can be debated (and indeed has been debated at the Inquiry), it is recognised that the economic benefits of the development are a material planning consideration in favour of the development.

## **CONCLUSIONS**

- 6.1 In concluding on whether or not to support the Ground 'A' appeal, it is necessary to weigh the environmental and surface access impacts of this development against the package of measures offered by the appellant to control, mitigate and compensate for that impact. That exercise also needs to make a realistic judgement as to what future operations might be like without such controls being in place at the Airport and the uncertain environmental impacts of the 'fall-back' position. The exercise also needs to consider the economic benefits of the development. As has been noted at the Inquiry, coming to a conclusion on the Ground 'A' appeal can only be a judgement based on the above factors.
- 6.2 The advice of technical experts in relation to noise, air quality and aviation has been taken by the Council and reflected in coming to this conclusion. Your officers have also worked closely with the officers of the Highways Agency and the local highway authorities on surface access matters. It is also noted that other Rule 6 parties to the Inquiry, including The Community Group, wish to see greater controls and mitigation than that offered by the appellant. Their requests for greater controls and mitigation will be made to the Inquiry, irrespective of the position of the Council, and will be taken on board by the Secretaries of State when determining the appeal.
- 6.3 On the basis that the appellants offer brings a measure of control over the environmental impact of the Airport where none exists at present and that the package of mitigation and compensation measures are considered reasonable



for this scale of operation, the development is considered in accordance with the development plan. It is therefore recommended that the Council supports the Ground 'A' appeal.

## **FORTHCOMING INQUIRY INTO THE 'PERMANENT' PASSENGER TERMINAL**

- 7.1 Although separate from the enforcement action, there are clearly parallels to be drawn between the consideration of a package of measures to control, mitigate and compensate for the 'interim' passenger facility and the consideration of a package of measures in respect of the proposed 'permanent' passenger terminal. Members will recall that they refused the planning application (W2003/0473) for the 'permanent' passenger terminal on September 11<sup>th</sup> 2004 for reasons relating to surface access, noise, air quality, ecology and impact on the character of the surrounding rural area.
- 7.2 The refusal of this application has been appealed by the appellant and an Inquiry has been scheduled to begin on the 10<sup>th</sup> January 2006. A pre-inquiry meeting has already been held at which the Inspectors made a clear request that the Council and the appellant should begin negotiations on the package of measures and, where possible, seek to reach agreement on the package in advance of the start of the Inquiry (this request has been followed up in writing). This is in accordance with Government guidance and may help to reduce the length of the Inquiry. In light of this request, it is important that your officers and consultants begin that process.
- 7.3 Although the 'interim' and 'permanent' facilities differ in their nature, the environmental effects that flow from the air and road movements of both developments are substantially the same albeit of a different scale. The 'interim' facility handling 0.98mppa, in effect, equates to 50% of the passenger throughput of the 'permanent' facility (2mppa) and therefore the environmental effects will be of a larger scale consistent with the increase in passenger throughput.
- 7.4 Having considered therefore what the appropriate package of measures would be to control, mitigate and compensate for the environmental effects of the 'interim' facility; it is also possible to conclude that the same package, albeit

amended in scale where relevant, would be the appropriate package for the 'permanent' facility. For example, in respect of mitigation, if a contribution of £50,000 per annum towards the Sound Insulation Grant Scheme was considered acceptable for the 'interim' facility; then a contribution of £100,000 per annum would be acceptable for the 'permanent' facility.

- 7.5 Applying this simplistic approach to the level of compensation measures, such as night-time noise quota count (NQC), is less straight forward. Although a reduction in the noise quota count would be expected as compensation for the increased noise impact, there is not a technical basis for the reduction being proportionate to the increase in passenger numbers associated with the 'permanent' facility. Whilst it would be appropriate, therefore, to seek to secure a reduction in the NQC to compensate for additional impacts, in arriving at an agreed figure, it will be necessary to adopt an approach that recognises will not be directly proportionate.
- 7.6 In respect of controls, if it is considered there is an appropriate mechanism for controlling passenger and passenger aircraft movements associated with the 'interim' facility then that mechanism should equally apply to the 'permanent' facility. For example, the passenger aircraft movement limit being based on the busy day movements used to produce the daytime noise contours.
- 7.7 Such an approach which relates the scale of the impact with the level of package offered is a clear and logical one. Therefore, as a general approach to progressing negotiations with the appellant in relation to the package for the 'permanent' facility it is considered appropriate.
- 7.8 Members are therefore requested to instruct your officers and consultants to adopt this approach in progressing negotiations with the appellant. In order that the position of the Council on such negotiations is clear at the outset; it would be appropriate to make a formal resolution that this approach will be adopted in respect of the forthcoming Inquiry. The outcome of any negotiations will be reported back to Members in due course.

## **RECOMMENDATIONS**

1. That the package of control, mitigation and compensation measures offered by the appellant is reasonable for this scale of operation and therefore the development is considered in accordance with the requirements of the development plan.
2. That the Inquiry be informed that, subject to a formal obligation in respect of the package of measures as proposed and the imposition of appropriate planning conditions, the Council would consider it appropriate for planning permission to be granted for the development by the Secretaries of State.
3. That in respect of the forthcoming Inquiry into the refusal of planning permission for a permanent terminal, the same package of measures varied where necessary to respond to the relative scale of impact would provide adequate mitigation to meet the concerns of the Council in respect of the environmental effects.
4. That officers/consultants negotiate on the above basis and report back to Members in due course on the extent to which a package of measures that accords with the above resolution has been achieved.